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July 8, 2016

VIA ECF

Honorable Steven M. Gold
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Government Employees Ins. Co., et al. v. Kiner, et al.
Docket No. 15-cv-3135 (ARR)(SMG)
RR File No.: 005100-00276

Dear Chief Magistrate Judge Gold:

As the Court is aware, we are counsel for Plaintiffs Government Employees Insurance Co., GEICO Indemnity Co., GEICO General Insurance Company and GEICO Casualty Co. (collectively “Plaintiffs” or “GEICO”) in the above-referenced matter. We write in response to the Letter Motion to Withdraw as Attorney filed by Steven Yuniver, present counsel for Tamer A. Gad, P.T. (“Gad”) and Universal Rehab PT, P.C. (“Universal Rehab”) (collectively the “Universal Defendants”). See Docket No. 119.

GEICO is not privy to the communications between the Universal Defendants and their counsel, but GEICO believes that the Universal Defendants’ purported discharge of Attorney Yuniver is tactical in nature and prejudicial to GEICO at this juncture of the case.

First, GEICO notes that the Court ordered the Universal Defendants to provide responses to GEICO’s discovery demands, without objection, by close of business on July 5, 2016. See Docket No. 115. The Universal Defendants have not complied with the Court’s Order, inasmuch as no responses to GEICO’s interrogatories were served by either Gad or Universal. Additionally, no responses to GEICO’s Document Requests were served by Universal Rehab. Furthermore, while Gad purported to provide responses to GEICO’s Document Requests, the responses are grossly deficient in that: (1) Gad objects to numerous Document Requests, despite the fact that he waived all objections by failing to timely respond, and was specifically ordered by this Court to respond without objection; and (2) the only documents provided are publicly available documents (certificate of incorporation for Universal Rehab and printouts from www.nycourts.gov showing pending litigation involving Universal Rehab), and a single corporate tax return for Universal Rehab for the year 2009.

Second, non-party Maria Gad (wife of Tamer Gad), who is also represented by Attorney Yuniver, had recently stipulated to appear for a deposition and produce documents by July 11, 2016; but now it seems the Gads have left the country not to return until July 28, 2016.

Third, the Universal Defendants had previously switched counsel after GEICO had pressed them for discovery early on in this case. See Docket Nos. 56-60.



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Accordingly, GEICO requests that, at a minimum, before present counsel is discharged, the Court require the Universal Defendants to comply with their discovery obligations or impose appropriate sanctions as the Court sees fit based upon the Universal Defendants' obvious failure to comply with the Court's June 29, 2016 Order.

Regarding settlement negotiations, GEICO disagrees with Mr. Yuniver's characterizations. GEICO was, and continues to be, willing to consider settlement; however, settlement efforts have been delayed and thwarted by the Universal Defendants for months. To the extent that the Universal Defendants are legitimately interested in restarting settlement negotiations, GEICO believes that the Court's assistance would be helpful. Notwithstanding the possibility of renewed settlement talks, and in light of the Universal Defendants' total disregard for the Court's orders in this case, GEICO believes that sanctions are appropriate, including but not limited to the striking of the Universal Defendants' Answer.

We appreciate the Court's attention to this matter.

Respectfully submitted,

RIVKIN RADLER LLP

Joshua D. Smith

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cc: All counsel via ECF